

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BENNY IVAN SMALL,
Plaintiff,

vs.

CLERMONT COUNTY JAIL, *et al.*,
Defendants.

Case No. 1:18-cv-897

Barrett, J.
Litkovitz, M.J.

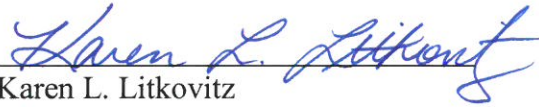
**REPORT AND
RECOMMENDATION**

On December 21, 2018, plaintiff initiated this prisoner civil rights action pursuant to 42 U.S.C. § 1983. (*See* Doc. 1). Prior to the receipt of a responsive pleading from any defendant,¹ plaintiff filed a motion to dismiss this action without prejudice. (Doc. 11).

Fed. R. Civ. P. 41(a)(2) provides that the Court may dismiss an action “at the plaintiff’s instance” upon “such terms and conditions as the court deems proper.”

Pursuant to Fed. R. Civ. P. 41(a)(2), it is **RECOMMENDED** that this action be dismissed without prejudice

Date: 4/18/19


Karen L. Litkovitz
United States Magistrate Judge

¹ On March 7, 2019, the undersigned issued an Order and Report and Recommendation, recommending that several of petitioner’s claims be dismissed for failure to state a claim and ordering service on defendant Leahy. (Doc. 8). Plaintiff was ordered to file a motion to issue service on the remaining unidentified defendants if and when he discovered their identity through discovery.

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).